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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JAIME AYALA,

Defendant and Appellant.

H038339

(Monterey County

Super. Ct. No. SS091385)

In December 2010, pursuant to a negotiated plea, defendant Jaime Ayala, pleaded no contest to two counts of car theft and admitted that one of the offenses was committed for the benefit of a criminal street gang. His sentence was suspended and he received three years' felony probation. After twice violating the terms of his probation, the court revoked probation and sentenced defendant to an aggregate prison term of four years. Defendant filed a timely appeal. We will affirm.

FACTUAL BACKGROUND¹

Over the course of several months, officers from an undercover operation (Santa Cruz County Auto Theft Reduction and Enforcement; SCARE) had been purchasing, among other things, stolen cars from suspects. On February 17, 2009, codefendant Lionel Cortez contacted the officers and indicated that he would bring them a Nissan

¹ The factual background is derived from the probation officer's report included in the clerk's transcript.

from Salinas and a friend would bring a Honda from Marina. At approximately 6:00 that evening, Cortez arrived in a Nissan, and left the scene several minutes later in a white car. Cortez met up with defendant, who was driving a Honda; defendant got out of the car, and Cortez drove the Honda back to the meeting location. After Cortez delivered the second car and was given \$700 for the two cars by an undercover officer, he left in the white car. He met defendant at a gas station and officers observed Cortez handing defendant money. The officers determined that the Nissan had been reported stolen on February 10, 2009, and that the Honda had been reported stolen on February 15, 2009.

On February 24, 2009, Cortez again contacted undercover officers to arrange for the delivery of stolen cars. Early that afternoon, Cortez drove up in a Suburban at an agreed location, and was given \$1,400 for two cars. Cortez left the area and was met several minutes later by defendant, driving a Honda. Cortez then delivered the Honda to the undercover officers. He and defendant left the area in a Toyota, were later stopped by Salinas police officers, and Cortez was arrested. When Cortez was searched, he was found to be in possession of Sureño gang music and paraphernalia. Defendant was released at the scene, but was subsequently arrested after the issuance of an arrest warrant.

PROCEDURAL HISTORY

Defendant, along with codefendant Cortez, was charged by complaint with four felonies, i.e., unlawful driving or taking of a vehicle without the owner's consent (Veh. Code, § 10851, subd. (a); counts 3 and 7), and two counts of receiving stolen property (Pen. Code, § 496, subd. (a); counts 4 and 8).² It was further alleged that defendant committed each of the four offenses for the benefit of, at the direction of, or in association with a criminal street gang (§ 186.22, subd. (d)).

² All further statutory references are to the Penal Code unless otherwise stated.

On December 29, 2010, defendant pleaded no contest to two counts of car theft (counts 3 and 7), and admitted the gang allegation as to count 3, with the understanding that the remaining counts and allegations would be dismissed and with the further understanding that he would receive felony probation. On February 2, 2011, the court suspended sentence; granted three-years felony probation; included as one probation condition that defendant serve 270 days in county jail; dismissed the remaining charges; and struck the remaining special allegations.

In September 2011, a petition was filed alleging that defendant had violated the terms of his probation after having been arrested by the Seaside police for battery upon a spouse or cohabitant (§ 243, subd. (e)(1)). After a hearing, the court found defendant to have violated the terms of his probation, revoked and reinstated probation, and modified the terms of probation to include additional terms, including terms related to domestic violence. In March 2012, defendant was arrested again and a second petition was filed alleging that he had violated probation (violation of restraining order). Defendant admitted the allegation, and the court revoked probation. It sentenced defendant to a middle term of two years for the car theft (count 3) conviction, plus a consecutive term of two years for the gang allegation, for an aggregate prison sentence of four years. The court also imposed a two-year concurrent prison sentence for the other car theft (count 7) conviction.

Defendant filed a timely notice of appeal.

DISCUSSION

We appointed counsel to represent defendant in this court. Appointed counsel filed an opening brief which stated the case and the facts but raised no specific issues. We notified defendant of his right to submit written argument on his own behalf within 30 days. We have received no written argument from defendant.

We have reviewed the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Based upon that review, we have concluded that there is no arguable issue on appeal.

DISPOSITION

The judgment is affirmed.

Márquez, J.

WE CONCUR:

Elia, Acting P.J.

Bamattre-Manoukian, J.